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August 29, 1957

Russell B. Tobey, Director
Recreation Division
Room 401, State House Annex
Concord, New Hampshire

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CONCORD, N.H.

Dear Mr. Tobey:

This is in response to your request of August 28 for an interpretation of RSA 224:26. This section provides that, "any agent or caretaker appointed by the state forester or the director of recreation for the protection of property on any state forest reservation, or recreational area, or any federal area under the administration of the forestry and recreation commission, shall on such areas have the powers of a constable." You ask whether the Commission must formally confer the power of constable on these individuals.

We answer in the negative. On appointment as an agent or caretaker the individuals enjoy the powers of a constable by operation of the statute. (RSA 224:26)

We would like to point out, however, that formal designation of these individuals as constables on State reservations would seem to have certain advantages. In the first instance the individuals are formally advised of the fact that they do possess these powers. Secondly, the formal appointment operates to advise the individuals of the limitations of their power both as to jurisdiction and time. The only change that we would recommend in your form is that the statutory reference be changed from "section 24 of chapter 233 of the Revised Laws (section 33A of chapter 191 of the Public Laws)" to RSA 224:26.

Very truly yours,

ETB/m

Elmer T. Bourque
Assistant Attorney General